

ACTIVITIES OF NON-STATE MILITARY INSTITUTIONS: ECONOMIC ASPECT

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Abstract. The *subject* of the study is the economic aspect of the activities of non-state military institutions (private military companies), in particular, the increased demand for the services provided by them, and the state regulation of their activities by national legislation of leading foreign countries and international acts. The *methodological basis* of the study is modern general scientific methods (systemic and structural, formal and logical, analysis and synthesis, induction and deduction, generalisation, comparative); special methods (historical and legal). The *purpose* of the study is to analyse the economic aspect of non-state military institutions, based on the analysis of scientific works, experience of leading foreign countries and international practice, as well as the analysis of domestic draft laws on legalisation of military consulting activities in Ukraine. In the course of the study, the authors analysed the works of scholars who have studied various aspects of private military campaigns (legal, economic, security) and their regulation in foreign countries, as well as international legal norms on the regulation of the activities under study. In addition, the authors critically analysed domestic draft laws on legalisation, state regulation and supervision (control) over the activities of non-state military institutions in Ukraine. As a *result* of the study, it was established that the emergence of draft laws on the legalisation of the activities of non-state military institutions, their state regulation and supervision in Ukraine, on the one hand, is due to the aggression of the Russian Federation against Ukraine, which began in 2014. On the other hand, the economic consequences of privatisation in many industries and the need to compare the costs of the state's functions, including security, with the benefits received. Under such conditions, the business environment has demanded the introduction of a promising business activity and business sector – military consulting. Recently, this demand has been reinforced by the availability of a significant number of highly professional military specialists with experience and willingness to participate in relevant operations, including abroad. It is also understood that the demand for the services of non-state military institutions and the possibility of starting such activities in foreign countries where they are legalised will lead to an outflow of qualified specialists for employment abroad, and a loss of human resources and state budget revenues in the form of taxes paid by military consulting entities. At the same time, the existence of such entities in the country will help to improve the level of training of military personnel in the context of Russia's large-scale armed aggression against Ukraine by attracting specialists with relevant experience and willingness to engage in this type of business activity. In the post-war period, the existence of this type of legal activity will solve the problem of employment of former military personnel who wish to continue to work officially in the military and receive decent wages, and thus reduce social tensions in the economic sector.

Keywords: business activities, state regulation, economic sphere, military consulting activities, military non-state institutions, private military campaigns, security.

JEL Classification: H56, L26, L51, L84

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1. Introduction

The intensification of globalisation processes in the world, the economic consequences of privatisation in many sectors and the need to compare the costs of the state's main functions, including security, with the benefits received have put the issue of legalising the activities of non-state military institutions on the agenda. The success of the latter in different parts of the world since the 1970s allows this idea to find supporters not only among government officials and economists, but also in the business environment.

In Ukraine, the massive emergence of non-state military institutions associated with the first wave of armed aggression by the Russian Federation in 2014 took the form of a volunteer movement of patriotic citizens who stood up in arms to defend Ukraine. At the same time, the volunteer military units were formed outside the legal framework, and their financing and material support was provided by private funds (donations). In other words, the legal status of these groups was not defined. At the same time, under the circumstances, the state authorities were unable to control the actions of these groups, including those critical of them. Therefore, the scientific and expert community and the public were concerned about the high probability of these formations turning into so-called "private armies" controlled by businessmen who provided them with material and financial support. This problem was subsequently resolved by integrating volunteer military units into the Armed Forces, the Ministry of Internal Affairs and the National Guard of Ukraine. However, this solution did not resolve the issue of legalisation of non-state military institutions and regulation of a new type of economic activity for Ukraine.

The second wave of Russia's armed aggression against Ukraine, which began in 2022, has intensified the urgency of solving the problem and thus put the issue of recognising non-state military institutions and state regulation of a new type of economic activity – military consulting – back on the agenda.

In view of the above, the purpose of this article is to study, based on the analysis of scientific works, experience of leading foreign countries and international practice, as well as domestic draft laws on legalisation of military consulting activities, the economic aspect of non-state military institutions in Ukraine.

In view of this goal, the objectives of the study are as follows: generalisation of scientific works that study the activities of private military campaigns, their state regulation (status, defining features, typology and range of services they can provide); comprehensive analysis of the main provisions of domestic draft laws aimed at legalising the activities of non-state military institutions in Ukraine and international practice of

their regulation; provision of proposals for improving the principles of establishment and functioning of military non-state institutions in Ukraine and their compliance with international humanitarian law.

2. Analysis of Scientific Works and International Norms Regulating the Activities of non-State Military Institutions

The role of non-state military institutions in the political, economic and military spheres is steadily increasing worldwide. Such concepts as "privatisation of war", "military outsourcing", "denationalisation of the military sphere", "private military companies", "military consulting activities" are increasingly used.

In Ukraine, one of the consequences of Russia's armed aggression was the emergence of highly professional military specialists. The proper use of their special skills and abilities, official employment and financial support, and, above all, the preservation of the existing human resources, puts on the agenda the need for legislative regulation of military consulting activities in Ukraine as one of the types of economic activities of non-governmental institutions in the military sphere.

Recently, this demand has been strengthened by the understanding that the demand for the services of non-state military institutions and the possibility of starting activities in foreign countries where they are legalised will lead to an outflow of qualified domestic specialists for employment abroad, and a loss of human resources and state budget revenues in the form of taxes paid by military consulting entities.

In such circumstances, the issue of legalising and regulating the economic activities of private military companies and defining their role in ensuring future security is attracting considerable attention of researchers.

Thus, L. Cameron and V. Chetail devoted their study to a comprehensive analysis of the international legal framework applicable to PMSCs (Cameron & Chetail, 2013).

C. Birgin suggests that some private military campaigns (such as Blackwater and Wagner Group) will soon be recognised under international law, which will allow them to play a more significant role in security in the future. In his opinion, "private military companies will be able to offer private intelligence, private fleet, and private aviation services, expanding the scope of activities and the list of services" (Birgin, 2020). However, his prediction regarding the status of the Wagner Group did not come true, as in 2023 it was recognised as a "terrorist organisation" for its participation in armed aggression against Ukraine, operations in the Middle East and Africa, in particular in France, the United Kingdom and the

Parliamentary Assembly of the Organisation for Security and Co-operation in Europe (OSCEPA).

K. Herbst explores the different forms of legitimisation of private military companies in the context of the transfer of security responsibilities to them by the government (Herbst, 2013).

On the contrary, S. MacLeod's study focuses on "the norms of the so-called International Code of Conduct for Private Security Providers and a system of self-regulation for private military campaigns, as the traditional concept of international responsibility for these campaigns is ineffective in the context of ensuring respect for human rights" (MacLeod, 2015).

A review of domestic scientific works shows that Ukrainian researchers have also begun to pay considerable attention to the issues of state regulation of private military campaigns (Hromovenko, 2014; Nevzorov & Khotenets, 2017), international experience in this area and its implementation in domestic practice (Hromovenko & Tiutiunnyk, 2015; Baranov, 2020; Dakhno, 2020), the role of private military companies in military conflicts (Kyrychenko, 2021), the possibility of Ukraine's use of private military companies as one of the asymmetric tools to counter Russia's military aggression (Kaletnik, Kostiuk & Voznyi, 2021; Krasyl'nykov et al., 2021).

It is worth noting the research of D. Viedienieiev, who considers private military campaigns "as the newest type of special purpose structures and highlights the risks of legalising activities in the field of military services in Ukraine" (Viedienieiev et al., 2010, 2020).

It is worth noting that along with scientists, experts, politicians, civil servants and NGOs also pay considerable attention to the expediency or in expediency of legalising the economic activities of military non-state institutions, or as they are also known in the world – private military campaigns. At the same time, their opinions are often diametrically opposed, since today, given the events, especially military and political conflicts, taking place in different parts of the world, the attitude towards them is ambiguous.

Indeed, on the one hand, quite often and not without reason, "human rights organisations accuse representatives of certain military non-state institutions of numerous human rights violations, torture, brutal massacres and banditry" (Hromovenko, 2014). On the other hand, and not without reason, especially in the context of the peculiarities of modern "proxy wars", experts in the field of private military business argue that "the key difference between mercenary units and military non-state institutions is that the activities of the latter are controlled by the state, as they work in its interests" (Hromovenko, 2014).

At the same time, the accumulated international experience indicates that "the range of use of military

non-state institutions is constantly expanding, especially in the so-called crisis regions, where governments face significant challenges in ensuring national security, including ensuring territorial integrity, overcoming political instability, and resolving civil conflicts" (Kaletnik, Kostiuk & Voznyi, 2021).

It is also worth emphasising that one of the reasons for the increasing use of certain services of private military companies by states is the dramatic changes in the international security system after the end of the Cold War and, at the same time, the emergence of "asymmetric" challenges and threats to national and global security, the list of which and the intensity of their impact tend to grow. The second major reason is "the current globalisation of the world economy and the expansion of the activities and influence of transnational corporations on the security of the international community. National armed forces and intelligence services in these conditions are often not flexible enough to adequately respond to these challenges and threats, and their involvement in a number of tasks is usually much more expensive than the use of private military companies. In turn, transnational corporations also need an efficient, flexible and effective tool to protect their interests in different regions. Therefore, both states and transnational corporations are increasingly turning to the services of private military companies" (Hromovenko, 2012).

It is also worth noting that unlike national armed forces and law enforcement agencies, military non-state institutions are commercial structures, i.e., the ultimate goal of their activities is to make a profit under any circumstances (in peacetime, special period or in a region of military conflict). Military non-state actors usually provide their services outside the countries in which they are registered, and their consumers are domestic or foreign legal entities interested in ensuring the security of their activities in countries where confrontation or armed conflicts are taking place, and individuals during their stay in crisis regions of the world.

In view of the above, governments, private companies and individuals have significantly expanded the practice of using military non-state actors to provide a range of services in areas where armed conflicts are taking place. In addition, international security and humanitarian organisations interested in supporting peacekeeping operations, protecting humanitarian cargo, etc. have recently joined the list of consumers of services provided by military non-state actors.

Thus, the list of services offered by private military non-state actors is quite broad:

– "specialised services related to participation in wars and military conflicts, including combat operations, strategic planning, intelligence gathering, operational

support and logistics, training, supply, delivery, maintenance; construction of military infrastructure, training and education of military personnel, introduction of military technologies and production of weapons, implementation of intelligence or counterintelligence activities, participation in counterterrorism operations, carrying out certain 'specific' assignments in which the state cannot officially involve representatives of law enforcement agencies and the armed forces" (Nevzorov & Khotenets, 2017; Private Military and Security Companies, 2024);

– "escorting convoys with cargo in the context of armed conflict and post-conflict settlement; training military formations of individual states to participate in armed conflicts; participation in military coups" (Hromovenko, 2012);

– "paramilitary protection of people and objects (embassies, energy systems or oil pipelines); protection of transport convoys; protection of humanitarian missions; participation in peacekeeping missions (under the auspices of the UN; demining; intelligence and assessment of the security situation in the region); maintenance and use of complex combat systems and equipment (advanced artillery or drones); anti-piracy (escort and protection of ships, negotiations with pirates); evacuation of people from hot spots; provision of analytical services; provision of military interpreters; training of local police or military forces (snipers, rangers); performing police functions where law enforcement agencies are not operating; training civilians to act in extreme conditions; full participation in combat operations together with cadre units or separately" (Semeniuk, 2020).

That is, it refers to all types of "force" activities, including unconventional means of influence. In this regard, there is a need to clarify the relevant legal circumstances in accordance with international humanitarian law and human rights standards. Therefore, the UN presented to states the so-called the Montreux Document, which contains rules and provisions on best practices for military non-state actors (PMSCs) operating in armed conflict zones (The Montreux Document, 2008).

It proposes to define the term "private military and security companies" as "private business entities that provide military and/or security services, regardless of how they characterise themselves. Military and security services include, inter alia, armed guarding and protection of persons and objects, such as convoys, installations and other locations; maintenance and operation of military installations; custody of prisoners; and advising or training of local military personnel and guards" (The Montreux Document, 2008).

At the same time, despite the definition proposed by the UN, the identification of the defining features of private military campaigns and their typology are still debatable.

Hence, S. Kyrychenko identifies the following features of private military companies: "having the status of a private commercial organisation whose main purpose is to make a profit; the vast majority of the activities defined by the charter of such a company (or all of them) relate to the provision of military services. These include services such as the creation, reform and development of security and defence forces; planning and preparation for their use; intelligence and counterintelligence; personnel training; use, maintenance and operation of weapons and military equipment; logistics support for security and defence forces; humanitarian demining; armed protection of objects, protection of diplomatic personnel, individuals and transport, and so forth; the objects of private military companies for the provision of services may be national and foreign legal entities or individuals; private military companies provide services mainly outside their countries. They can operate in peacetime and during a military conflict, as well as directly in the zone of such a conflict" (Kyrychenko, 2021).

S. Kyrychenko, based on the analysis of the nature of services that can be provided by private military campaigns, documents of international organisations and scientific publications, considers the following typology of such companies to be the most appropriate:

– "military provider companies that provide services to support the combat operations of the security and defence forces (in NATO terminology, tactical support), including direct participation in combat operations. However, the latter service is not provided by modern private military campaigns, at least officially;

– military consulting companies specialise in providing services for the planning, creation, reform and development of security and defence forces, including intelligence and counterintelligence agencies, their combat and special training, and so forth;

– military support companies – their activities include: maintenance and operation of complex weapons systems, military equipment and computer systems; logistics support for troops; construction of military facilities;

– private security companies operating in armed conflict or in high-risk areas, including in countries with an unstable environment. Although they are usually involved in the protection of facilities and individuals rather than combat operations, there is no clear distinction between these types of activities in areas of armed conflict. For example, when protecting airfields, oil pipelines and other infrastructure, security companies can conduct combat operations against illegal military groups, terrorists, etc.; private military campaigns specialising in intelligence and counterintelligence activities. Their network is virtually closed. According to various Internet sources, the

following companies cooperate with state intelligence agencies: Strategic Forecasting Inc, Booz Allen Hamilton (American companies), Aegis, Hakluyt & Company (British companies)" (Kyrychenko, 2021).

At the same time, both scholars and experts point out that the use of military non-state institutions in modern conditions has its advantages and disadvantages. Thus, the study conducted by V. Horovenko and V. Tiutiunnyk, a comparative analysis of the legal status and effectiveness of similar tasks performed by the state's security forces and military non-state institutions allows to identify a number of advantages of the latter: "an effective and flexible instrument of foreign policy, through which the state can implement its own national interests in crisis regions of the world when it is impossible or undesirable to involve the armed forces or other state structures; the possibility to arrive in a given area and start performing tasks faster, as they act on their own decision within the timeframe specified in the contract, compared to armed forces units whose mobility is limited by the need to follow the procedures established by law for the parliament, president and government to make decisions on their deployment abroad, especially when it comes to areas of military conflict; availability of highly professional specialists due to high requirements for candidates and competition among former military personnel and combatants, law enforcement officers and intelligence officers who have the necessary skills and combat training, while competent personnel remain in the country and do not join the ranks of mercenaries abroad; services of military non-governmental institutions are less expensive than the use of state military structures, because, despite the fact that the salaries of employees of military non-governmental institutions are higher than those of the military, they receive them only during the period of direct performance of tasks under the contract. In addition, they pay taxes to the state budget" (Horovenko & Tiutiunnyk, 2015).

The disadvantages of their use include the following:

- Lower risk tolerance, as their employees are not criminally liable for failure to perform their tasks. Therefore, it is not uncommon for employees of such institutions to refuse to perform certain tasks due to the growing threat to their lives, which leads to a decrease in the combat capability of regular military units;
- as an independent business entity, they are not subordinated to the military command, which causes problems in the process of providing military operations due to the unsettled nature of their relations with the military command. This makes it impossible to check in advance the real capabilities of military non-state institutions to support military operations, while the responsibility for the successful

conduct of operations lies with the military command (Horovenko & Tiutiunnyk, 2015);

– "the ability of large companies (corporations) to influence the political situation and actively participate directly in hostilities, while the ambiguity of the status of military non-state institutions allows them to circumvent international law, military protocols and ceasefire agreements and avoid responsibility for unconventional means of influence against peace and other international crimes" (Semeniuk, 2020);

- potential use of military non-state actors by one country to discredit legitimate authorities and support separatists in another country, so that the activities of an institution registered in one country may threaten the national security of the country in which it is used.

The above objectively raises the following issues for public authorities that require appropriate legal regulation:

- The expediency of the state monopoly on the legal use of force and the possibility of granting such rights to military non-state institutions;
- defining the status of military non-governmental institutions, requirements for the qualification of employees, their rights and obligations;
- introduction of state regulation of the activities of military non-state institutions and determination of the specifics of their implementation, as well as supervision (control) over these activities by the state and society in order to prevent the transformation of such institutions into terrorist or bandit groups and their use by destructive forces to violate the territorial integrity of the country, change its constitutional order, and so forth;
- determination of the types and scope of services, including those that can be qualified as combat operations, that can be provided by military non-state actors, including in areas of hostilities, the grounds for their provision, and the circle of their consumers.

3. Analysis of Domestic Draft Laws on the Activities of Non-State Military Institutions

In 2018, a group of MPs led by V. Karpuntsov made an attempt to regulate the activities of military non-governmental institutions within the framework of the draft law "On Military Consulting Activities", which defined this activity as "the provision of military or security services to states, legal entities or individuals outside Ukraine as defined by this Law" (The Draft Law of Ukraine "On Military Consulting Activities" № 8093, 2018). According to the draft law, a military consulting entity was defined as "a business entity established and registered on the territory of Ukraine that provides military or security

services to states, legal entities or individuals outside Ukraine in accordance with the requirements of the current legislation of Ukraine and international legal agreements ratified by the Verkhovna Rada of Ukraine" (The Draft Law of Ukraine "On Military Consulting Activities" № 8093, 2018). It is worth noting that this wording immediately raises the question of the range of individuals who may be provided with military services outside Ukraine.

The main purpose of this draft law was to "create conditions for: effective exercise of the right to work guaranteed by the Constitution of Ukraine by persons who have the status of war veterans, combatants, former military personnel and law enforcement officers; ensuring the rights and legitimate interests of the founders and participants of military consulting companies; ensuring state control over the implementation of military consulting activities; as well as the development and improvement of the provision of military and security services" (The Draft Law of Ukraine "On Military Consulting Activities" № 8093, 2018).

Unfortunately, the Draft Law "On Military Consulting Activities" of 2018 remained a draft despite its relevance. Therefore, in 2020, another attempt was made to regulate the activities of military non-governmental institutions. Unlike the previous draft law, the purpose of the new one was defined as: "the development and expansion of Ukraine's international military cooperation; defining the legal status, procedure for the establishment and liquidation of military consulting companies as business entities; ensuring the rights and legitimate interests of the founders and participants of the military consulting entity; provision of state control over the implementation of military consulting activities, as well as development and improvement of the sphere of military and security services; ensuring the observance of human rights and norms of International Humanitarian Law by the subjects of military consulting activities" (The Draft Law of Ukraine "On Military Consulting Activities" № 3005, 2020).

At the same time, like the previous draft law, the National Commission for State Regulation of Military Consulting Activities (hereinafter referred to as the Commission) is designated as the state regulatory body in the field of military consulting activities. It also stipulated that "state regulation in this area is carried out by the Commission in accordance with the requirements of this Law and the Laws of Ukraine 'On Licensing of Certain Types of Economic Activity', 'On Basic Principles of State Supervision (Control) in the Field of Economic Activity' and other legislative acts of Ukraine" (The Draft Law of Ukraine "On Military Consulting Activities" № 3005, 2020).

At the same time, unlike the previous draft law, the new one has expanded the composition of the

Commission. Thus, the persons (one representative each) appointed by the Minister of Defence of Ukraine; the Minister of Economic Development and Trade of Ukraine from the State Export Control Service of Ukraine; the Minister of Foreign Affairs of Ukraine; the Head of the Foreign Intelligence Service of Ukraine; the Head of the Security Service of Ukraine and the Chief of Staff of the Commission were added to the persons appointed by the Minister of Internal Affairs of Ukraine and the relevant defence committee of the Verkhovna Rada of Ukraine, and a person appointed by the President of Ukraine was included.

However, in general, the content of the new draft law was not much different from the previous one. This is quite evident in the definition of military consulting activities (see Table 1, differences in italics).

As of today, none of the proposed draft laws has been adopted for various reasons. In addition, they have been heavily criticised by experts, in particular, O. Aulin expressed the following warnings about: "attempts to organise a monopoly import of small arms and other military equipment to Ukraine for further profitable resale, including to the state; the possibility of undermining the defence capability of Ukraine, which is at war, as a result of Ukrainian military personnel going abroad to earn money, and the hypothetical possibility of their use by the aggressor country in the temporarily occupied territories, which are de jure the territory of Ukraine, but de facto not controlled by it; cancellation of the provisions of Article 447 of the Criminal Code "mercenaryism", which provides for liability for recruitment, financing, material support, training of mercenaries for use in armed conflicts" (Aulin, 2020).

The authors categorically disagree with the latter point, as international law quite clearly defines a mercenary as any person who: "specially recruited locally or abroad to take part in an armed conflict; actually participates directly in hostilities; participates in hostilities, guided mainly by the desire to obtain personal gain, and has been actually promised by or on behalf of a party to the conflict material remuneration that significantly exceeds the remuneration promised or paid to combatants of the same rank and functions who are members of the armed forces of that party; is neither a citizen of a party to the conflict nor a person permanently residing in the territory controlled by a party to the conflict; not a member of the armed forces of a party to the conflict; not sent by a State other than a party to the conflict to perform official duties as a member of its armed forces" (Protocol Additional to the Geneva Conventions, 1949).

At the same time, in authors' opinion, one of the most significant shortcomings of these draft laws is the status, tasks and powers of the body that will carry out state regulation in this area.

Table 1

Comparative table of military consulting activities

Draft Law № 8093 of 05.03.2018	Draft Law № 3005 of 04.02.2020
<p>Military services include the following:</p> <ol style="list-style-type: none"> 1) Training of personnel of the armed forces or other security or law enforcement agencies of a foreign state, as well as provision of personnel, financial, logistical, information and analytical support; 2) maintenance and servicing of military vehicles and equipment; 3) military consulting services; 4) ensuring the provision of military equipment and supplies; 5) military construction works; 6) demining of the territory, buildings and structures; 7) provision of military interpreter services; 8) medical and paramedical services; 9) provision of services for the peaceful settlement of military conflicts (mediation). <p>Security services include: protection of objects for various purposes; protection of life and health of individuals; security consulting services.</p> <p><i>The subject of military consulting activities may carry out security activities on the territory of Ukraine in accordance with the procedure stipulated by the Law of Ukraine "On Security Activities".</i></p>	<p>Military services include the following:</p> <ol style="list-style-type: none"> 1) Training of personnel of the armed forces or other security or law enforcement agencies of a foreign state, as well as provision of personnel, financial, logistical, information and analytical support; 2) maintenance and servicing of military vehicles and equipment; 3) military consulting services; 4) ensuring the provision of military equipment and supplies; 5) military construction works; 6) demining of the territory, buildings and structures; 7) medical and paramedical services; 8) provision of services for the peaceful settlement of military conflicts (mediation); 9) risk management, training of security forces, consultations on security risks. <p>Security services include: protection of objects for various purposes; protection of life and health of individuals and legal entities; security consulting services.</p> <p><i>The subject of military consulting activities has no right to provide services that, according to the International Humanitarian Law, can be provided only by the state, to take direct part in hostilities during an armed conflict.</i></p>

Source: compiled by the authors based on the analysis of (The Draft Law of Ukraine "On Military Consulting Activities", 2018, 2020)

Thus, the Commission, which is an independent state collegial body with one of the tasks of forming and ensuring the implementation of state regulation policy in the field of military and security services markets, is designated as the body of state regulation, monitoring and control over the activities of military consulting entities. According to the draft laws, the Commission: "develops and approves the instruction on the procedure for issuing licences for the right to carry out military consulting activities; develops and approves licence conditions for its implementation; develops and approves the procedure for monitoring compliance with the licence conditions for carrying out military consulting activities; issues and reissues licences for military consulting activities, issues duplicates of such licences and decides on their invalidation; exercises, within its competence, control over the compliance of military consulting entities with licence conditions by conducting scheduled and unscheduled inspections; makes decisions on the elimination of deficiencies, cancellation of a licence for military consulting activities; enters information on licensing of economic activities of a military consulting entity into the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations" (The Draft Law of Ukraine "On Military Consulting Activities", 2018, 2020).

In addition, the Commission is "the owner and manager of the Unified State Register of Military Goods held by military consulting entities. The Commission also approves the procedure for its maintenance of the Register and determines the subdivision of its staff for the administration and

maintenance of the Register" (The Draft Law of Ukraine "On Military Consulting Activities", 2018, 2020).

In authors' opinion, the concentration of the powers to formulate policy, approve licensing conditions and the procedure for monitoring their implementation, carry out the said monitoring and state registration, issue licences and other permits in one body carries significant risks of abuse and corruption pressure by officials of the said body.

The above allows to formulate the following proposals regarding the content of the legal framework for the establishment and functioning of military non-state institutions, rights, obligations, guarantees of social and legal protection of their founders and personnel, state supervision (control) over their activities in the context of ensuring the national security of Ukraine, which should be clearly defined:

- Requirements for state registration of a military non-governmental institution; licensing conditions of activity with a list of services that can be provided by them;
- requirements for personnel qualifications (professional and physical training, psychological stability, etc.), their registration and accounting of employees' activities;
- requirements for the competence of the management and its policy on observance of human rights and freedoms;
- a list of special means, firearms, ammunition, devices and ammunition that can be used by personnel of military non-governmental institutions in their activities, the procedure for their registration,

circulation, accounting and storage, as well as liability for their violation;

- requirements for registering incoming orders and regulating all stages of contract execution and its terms;
- liability for violations of national and international law;
- state authorities responsible for the formation of state policy in this area, its implementation, as well as the provision of administrative services (state registration, licensing, etc.) and supervision (control) over the activities of military non-state institutions;
- peculiarities of state and public control over the activities of military non-governmental institutions.

At the same time, it is worth noting that despite the absence of special legislation in the country regulating the activities of military non-state institutions, they are now quite legally existing in Ukraine. One of them is Omega Consulting Group LLC (2024), founded in 2011 in Ukraine, which operates under a security licence issued by the Ministry of Internal Affairs of Ukraine and provides comprehensive risk management and integrated security services to protect people and infrastructure around the world. Its representative, T. Kebkalo, argues that the main activities of modern private military companies include: "support of foreign states in ensuring external security (assistance in building capabilities to counter international extremism and terrorism, as well as training their armed forces to defend against external aggression); assistance to foreign states in ensuring internal security (assistance in combating subversive activities of opposition forces, insurgent, terrorist, criminal organisations and countering other threats to internal stability); special intelligence (actions with the use of special means, covertly or under legal cover, to obtain or verify information of strategic or operational importance); ensuring relations with the civil administration and the population (actions aimed at improving the operational environment, including interaction with the civil administration and the population of the host country in order to identify and neutralise factors destabilising civil society); other tasks (provision of humanitarian assistance; countering drug trafficking, maritime piracy and other types of criminal activity on a national, regional and global scale; search and rescue operations, interrogation of prisoners of war, protection of embassies, oil rigs, and so forth)" (Kebkalo, 2020).

4. Conclusions

Summing up the above, it should be noted that the activities of non-state military institutions in Ukraine

are promising, but still unregulated. The wide range of services provided by non-state military institutions to national governments, individuals, transnational corporations and international organisations includes all types of "power" activities, including non-traditional means of influence. Foreign experience shows a growing demand for these services.

The emergence of the draft law "On Military Consulting Activities" in Ukraine also shows that there is a demand in business circles for the introduction of a promising business activity and business sector – military consulting. Recently, this demand has been strengthened by the presence of a significant number of highly professional military specialists with experience and willingness to participate in relevant operations, including abroad. It is also understood that the demand for the services of non-state military institutions and the possibility of starting activities in foreign countries where they are legalised will lead to an outflow of qualified specialists for employment abroad, and a loss of human resources and state budget revenues in the form of taxes paid by military consulting entities. At the same time, the presence of such entities in the country will improve the level of training of military personnel in the context of Russia's large-scale armed aggression against Ukraine by attracting specialists with relevant experience and willingness to engage in this type of economic activity. In the post-war period, this type of legal activity will help to solve the problem of employment of former military personnel and combatants who want to continue to work officially in the military and receive decent wages, and thus reduce social tensions in the economic sector, as it is difficult for such a contingent to find employment in their field of expertise in the post-war reconstruction.

Therefore, the legislative framework for military consulting activities should be shaped in such a way that these activities do not harm the development of a democratic society in Ukraine, on the one hand, and contribute to the maximum efficiency of ensuring the national security of Ukraine and compliance with international humanitarian law, on the other. It also contributed to the country's economic growth during the post-war reconstruction and to the well-being of the citizens who defended it with arms.

Prospects for further research into the activities of non-state military institutions are to determine their role and the possibility of using them in modern military and political conflicts, including proxy wars, network and privatised wars in the context of ensuring national and global security.

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Received on: 18th of June, 2024

Accepted on: 23th of August, 2024

Published on: 20th of September, 2024